

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 328
CASE NO. 80-2
December 11, 1980

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on Monday, October 27, 1980. At this hearing session the Zoning Commission considered an application from Shirley and Jerome Markowitz, Marian and Jack Marks, and Gertrude and Bernard Goldenhorn to amend the Zoning Map of the District of Columbia.

FINDINGS OF FACT

1. The application requests a change of zoning from R-1-B to C-M-1 or C-2-A for lots 33 and 36 in Square 3187. At the public hearing the applicants amended their application to seek C-2-A zoning, only.
2. The subject site is located at 7053 and 7059 Blair Road, N.W., and consists of approximately 13,100 square feet.
3. The R-1-B District permits single-family detached dwellings with a minimum lot area of 5000 square feet, a minimum lot width of fifty feet, a maximum lot occupancy of forty percent, and a three story / forty foot maximum height limit. The C-M-1 District permits heavy commercial and light industrial uses along with retail and office uses with a maximum FAR of 3.0, and a maximum height of three stories / forty feet. New residential uses are prohibited. The C-2-A District permits community business centers, including office, retail and all kinds of residential uses, to a maximum FAR of 2.5 with non-residential uses limited to 1.5 FAR, a maximum height of fifty feet and a maximum lot occupancy of sixty per cent for residential uses.
4. The applicants propose to develop the property for commercial retail or office uses, only. Manufacturing or industrial uses would not be developed.
5. The site is located on the northeast side of Blair Road at the intersection of Fifth and Blair Road, N.W., in the Takoma

community of the city. Lot 33 is owned by the Marks and Markowitzs who are the operators of the Marks Supply Hardware Company located on lot 823 which adjoins lot 33. Lot 36 is owned by the Goldenhorns who are the operators of the District Glass Co., located on lot 822 which adjoins lot 36. Lot 33 is improved with a hard gravel surface, is used for parking and/or vehicular storage, and is enclosed with an eight-foot chain-link fence. Lot 36 is improved with a vacant, deteriorating, and boarded-up single-family detached frame house.

6. To the immediate and distant north, northwest, west, southwest, and south of the site is R-1-B zoning. To the immediate southeast, east, and northeast of the site is C-M-1 zoning. To the distant southeast of the site is R-5-A, and the distant east and northeast is C-2-A zoning.
7. The uses in the area are generally consistent with the zoning pattern. There are predominately low-density detached houses and apartment-type residential uses in the R-1-B and R-5-A Districts, respectively. There are only two residential uses in Square 3187. Those uses front on Chestnut Street to the northwest of the site, abut lot 36, and are zoned R-1-B. There are manufacturing and industrial uses in the C-M-1 District including the New York Bakery and the B and B Caterers Co., adjacent to the site. Finally, there are commercial retail and employment uses including personal service facilities and a gasoline station with some scattered non-conforming industrial uses in the C-2-A District.
8. The subject site and the entire Takoma area had previously been under consideration for rezoning by the Zoning Commission in Case No. 78-24 (Map Amendment - Takoma Plan). By Z.C. Order No. 268 dated March 8, 1979, the Zoning Commission approved comprehensive changes of zoning for the Takoma area. The Zoning Commission decided to retain the R-1-B zoning for lots 33 and 36 in Square 3187 because it considered at that time to rezone the subject lots to C-M-1 but realized that C-M-1 had not been advertized for rezoning consideration.
9. The applicants, by testimony presented at the public hearing, indicated that they were negotiating with two Takoma community organizations, Plan Takoma and Neighbors, Inc., to enter into a covenant to restrict the uses permitted on the subject site. The applicants indicated that the restricted uses identified in the covenant would generally be those uses permitted in the C-1 District. The applicants acknowledged the fact that the Zoning Commission had no authority to employ contract zoning in map amendment cases of this type, where the enactment of a covenant was the basis for a decision. They indicated, however, that based on a D.C. Court of Appeals decision in the Capitol Hill Restoration Society vs the D.C. Zoning Commission

case in 1977, the courts ruled that the Zoning Commission should take into the consideration of its decisions, the enactment of a covenant. The applicant testified that the covenant that was under negotiation would be filed with the Zoning Commission before the Commission would take this application under consideration for decision.

10. The applicants further testified that the rehabilitation of the existing vacant structure on lot 36 for a residential use was economically unfeasible because of the extensive cost to rehabilitate versus the anticipated investment return for a single-family residential use. They also indicated that Takoma was designated a historic district and that the proposal would require a review before the Joint Committee on Landmarks.
11. The applicants, by testimony presented by its traffic consultant, indicated that the proposed uses would generate no measureable increase of traffic on the street system in the neighborhood. They testified that off-street parking spaces would be provided and be sufficient to conform to the Regulations for the uses developed.
12. The Office of Planning and Development(OPD) by memorandum dated October 10, 1980 and by testimony presented at the public hearing recommended approval of C-M-1 zoning, subject to the recommendations of the D.C. Department of Transportation(DCDOT) and the D.C. Public Schools. Subsequent to hearing and having taken the covenant into consideration, the OPD, by supplemental memorandum dated November 4, 1980, indicated that it had no objections to rezoning the subject site to C-2-A, subject to the enactment of the covenant.
13. The D.C. Department of Environment Services(DES) by memorandum marked August 1, 1980, indicated that the proposed changes would have no significant impact on the interests of the DES.
14. The D.C. Public Schools by memoranda dated July 18, and Sept, 18, 1980, in one, did not object to the project and, respectively in the other, indicated that the change of zoning would create a possible safety hazard for the student population at the intersection of Blair Road, and Fifth and Dahlia Streets, N.W.
15. The OPD by testimony presented at the public hearing indicated that the DCDOT did not file a report for this case. The OPD, however, referred to the DCDOT position in Case No. 78-24 where the agency objected to any type of proposal that would further adversely impact an already - overburdened traffic system in the subject neighborhood.

16. Advisory Neighborhood Commission - 4B by letter dated October 27, 1980 and by testimony presented at the public hearing, supported the proposal, subject to the enactment of the covenant.
17. Plan Takoma by letter dated October 27, 1980 and Neighbors, Inc., by letter dated October 27, 1980 and by testimony presented at the public hearing supported the proposal, subject to the enactment of the covenant.
18. Persons in opposition to the proposal indicated the following concerns as the basis for their objection:
 - a. There was an economic feasibility that the existing building on lot 36 could be rehabilitated for single-family residential use,
 - b. The proposal would be an extension of commercial uses and would adversely impact the neighborhood,
 - c. The proposal would lessen the area's potential for rebirth and restoration, and
 - d. The proposal would generate traffic and create unsafe conditions for school children at the intersection of Blair Road, and Fifth and Dahlia Streets, N.W.
19. The Commission finds that the deterioration of the existing vacant detached house on lot 36 is so extensive that there would be little or no feasibility for an adequate investment return, if a single-family residential use were developed. The Commission also finds that the extension of commercial uses to the site would not be an intrusion of commercial uses into the residential community. The Commission believes that the proposal would serve as a logical termination of commercial uses to the northwest end of Square 3187 because in that square there are no residential uses fronting on Blair Road but instead front on Chestnut Street to the northwest.
20. The Commission finds that the potential for the area's rebirth and restoration is not diminished, based on the previous findings of this order and the stabilizing affect of the Commission's decision in Case No. 78-24, Order #268. The Commission finds that the proposed uses would generate no measurable increase to the already - overburdened traffic system and that the peak morning and afternoon traffic patterns would normally occur at times of the day other than those times when students are traveling to and from school. Consequently, the Commission believes that the safety of school pupils would not be affected.

21. The covenant between the applicants, and the Plan Takoma and Neighbors, Inc., was filed in the record and will run with the land if the rezoning to C-2-A or C-M-1 is approved.
22. This application was referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC reported that the proposed rezoning will not have an adverse impact on the functions of the Federal Establishment or other Federal interests in the National Capital or the historic character thereof.

CONCLUSIONS OF LAW

1. Rezoning to C-2-A is in accordance with the Zoning Act (Act of June 20, 1938, 52 Stat, 797), by furthering the general public welfare and serving to stabilize and improve the area.
2. Rezoning to C-2-A will promote orderly development in conformity with the entirety of the District of Columbia Zoning Plan as embodied in the Zoning Regulations and Map of the District of Columbia.
3. Rezoning to C-2-A will not have an adverse impact on the surrounding neighborhood.
4. The Commission takes note of the position of the Advisory Neighborhood Commission, and in its decision has accorded, the ANC the "great weight" to which it is entitled.
5. The Commission concludes that it can take note of the covenant filed in the record by the applicant, Plan Takoma and Neighbors Inc., and concludes that the restrictions set forth in that covenant will limit use of the property in a manner that will protect and enhance the surrounding neighborhood.

DECISION

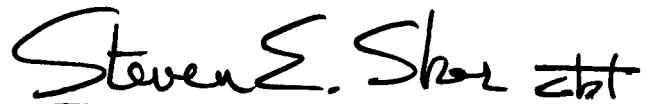
In consideration of the Findings of Fact and Conclusions of Law herein, the Commission hereby orders APPROVAL of the following action:

Change from R-1-B to C-2-A lots 33 and 36 in
Square 3187 located at 7053 and 7059 Blair Road,
N.W., respectively.

Vote of the Commission taken at the public meeting on November
13, 1980: 4-0 (Commissioners Walter B. Lewis, John G. Parsons,
Ruby B. McZier and Theodore F. Mariani, to approve C-2-A -
Commissioner George M. White, not voting not having participated
in the case).



THEODORE F. MARIANI
Chairman
Zoning Commission



STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting
held on December 11, 1980 by a vote of 4-0 (Commissioners Walter B.
Lewis, John G. Parsons, Ruby B. McZier and Theodore F. Mariani, to
adopt - Commissioner George M. White, not voting not having partici-
pated in the case).

In accordance with Section 4.5 of the Rules or Practice and Procedure
before the Zoning Commission of the District of Columbia (26 D.C.
Register, 1865-1827, October 26, 1979), this order is final and
effective on 26 DEC 1980.